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14 Attorneys for Plaintiff
15 UNITED STATES OF AMERICA

16 UNITED STATES DISTRICT COURT
17
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,
20 Plaintiff,
21 v.
22 JASON EDWARD THOMAS CARDIFF,
23 Defendant.

No. 5:23-00021-JGB

[PROPOSED] PROTECTIVE ORDER
REGARDING DISCOVERY CONTAINING
PERSONAL IDENTIFYING INFORMATION

24 The Court has read and considered the parties' Stipulation for
25 a Protective Order Regarding Discovery Containing Personal
26 Identifying Information ("PII"), filed by the government and
27 defendant JASON EDWARD THOMAS CARDIFF ("defendant") in this matter
28 on December 13, 2023, which this Court incorporates by reference

1 into this order, and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND
2 ORDERS as follows:

3 1. The government's discovery in this case relates to
4 defendant's alleged crimes, that is, violations of 18 U.S.C. §
5 1029(a)(5): access device fraud; 18 U.S.C. § 1028A(a)(1): aggravated
6 identity theft; and 18 U.S.C. § 1512(b)(2)(B): witness tampering.

7 2. A protective order for the discovery is necessary so that
8 the government can produce to the defense materials containing third
9 parties' PII. The Court finds that disclosure of this information
10 without limitation risks the privacy and security of the
11 information's legitimate owners. Because the government has an
12 ongoing obligation to protect third parties' PII, the government
13 cannot produce to defendant an unredacted set of discovery
14 containing this information without this Court entering the
15 Protective Order. Moreover, PII makes up a significant part of the
16 discovery in this case and such information itself, in many
17 instances, has evidentiary value. If the government were to attempt
18 to redact all this information in strict compliance with Federal
19 Rule of Criminal Procedure 49.1, the Central District of
20 California's Local Rules regarding redaction, and the Privacy Policy
21 of the United States Judicial Conference, the defense would receive
22 a set of discovery that would be highly confusing and difficult to
23 understand, and it would be challenging for defense counsel to
24 adequately evaluate the case, provide advice to defendant, or
25 prepare for trial.

26 3. The purpose of this Protective Order is therefore to
27 (a) allow the government to comply with its discovery obligations
28 while protecting this sensitive information from unauthorized

1 dissemination, and (b) provide the defense with sufficient
2 information to adequately represent defendant.

3 4. Accordingly, the discovery that the government will
4 provide to defense counsel in the above-captioned case will be
5 subject to this Protective Order, as follows:

6 a. As used herein, "PII Materials" includes any
7 information that can be used to identify a person, including a name,
8 address, date of birth, Social Security number, driver's license
9 number, telephone number, account number, email address, or personal
10 identification number.

11 b. Confidential Information" refers to any document or
12 information containing PII Materials that the government produces to
13 the defense pursuant to this Protective Order and any copies
14 thereof.

15 c. "Defense Team" includes (1) defendant's counsel of
16 record ("defense counsel"); (2) other attorneys at defense counsel's
17 law firm who may be consulted regarding case strategy in this case;
18 (3) attorney Stephen Cochell of the Cochell Law Firm; (4) defense
19 investigators who are assisting defense counsel with this case;
20 (5) retained experts or potential experts; and (6) paralegals, legal
21 assistants, and other support staff to defense counsel who are
22 providing assistance on this case. The Defense Team does not
23 include defendant, defendant's family members, or any other
24 associates of defendant.

25 Terms of the Protective Order

26 5. The parties jointly request the Court enter the Protective
27 Order, which will permit the government to produce Confidential
28 Information in a manner that preserves the privacy and security of

1 third parties. The parties agree that the following conditions in
2 the Protective Order will serve these interests:

3 a. The government is authorized to provide defense
4 counsel with Confidential Information marked with the following
5 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
6 ORDER." The government may put that legend on the digital medium
7 (such as DVD or hard drive) or simply label a digital folder on the
8 digital medium to cover the content of that digital folder. The
9 government may also redact any PII contained in the production of
10 Confidential Information.

11 b. If defendant objects to a designation that material
12 contains Confidential Information, the parties shall meet and
13 confer. If the parties cannot reach an agreement regarding
14 defendant's objection, defendant may apply to the Court to have the
15 designation removed.

16 c. Defendant and the Defense Team agree to use the
17 Confidential Information solely to prepare for any pretrial motions,
18 plea negotiations, trial, and sentencing hearing in this case, as
19 well as any appellate and post-conviction proceedings related to
20 this case.

21 d. The Defense Team shall not permit anyone other than
22 the Defense Team to have possession of Confidential Information,
23 including defendant, while outside the presence of the Defense Team.

24 e. At no time, under no circumstance, will any
25 Confidential Information be left in the possession, custody, or
26 control of defendant, regardless of defendant's custody status.

27 f. Defendant may review PII Materials only in the
28 presence of a member of the Defense Team, who shall ensure that

1 defendant is never left alone with any PII Materials. At the
2 conclusion of any meeting with defendant at which defendant is
3 permitted to view PII Materials, defendant must return any PII
4 Materials to the Defense Team, and the member of the Defense Team
5 present shall take all such materials with him or her. Defendant
6 may not take any PII Materials out of the room in which defendant is
7 meeting with the Defense Team.

8 g. Defendant may see and review Confidential Information
9 as permitted by this Protective Order, but defendant may not copy,
10 keep, maintain, or otherwise possess any Confidential Information in
11 this case at any time. Defendant also may not write down or
12 memorialize any data or information contained in the Confidential
13 Information.

14 h. The Defense Team may review Confidential Information
15 with a witness or potential witness in this case, including
16 defendant. A member of the Defense Team must be present if PII
17 Materials are being shown to a witness or potential witness. Before
18 being shown any portion of Confidential Information, however, any
19 witness or potential witness must be informed of, and agree in
20 writing to be bound by, the requirements of the Protective Order.
21 No member of the Defense Team shall permit a witness or potential
22 witness to retain Confidential Information or any notes generated
23 from Confidential Information.

24 i. The Defense Team shall maintain Confidential
25 Information safely and securely, and shall exercise reasonable care
26 in ensuring the confidentiality of those materials by (1) not
27 permitting anyone other than members of the Defense Team, defendant,
28 witnesses, and potential witnesses, as restricted above, to see

1 Confidential Information; (2) not divulging to anyone other than
2 members of the Defense Team, defendant, witnesses, and potential
3 witnesses, the contents of Confidential Information; and (3) not
4 permitting Confidential Information to be outside the Defense Team's
5 offices, homes, vehicles, or personal presence.

6 j. To the extent that defendant, the Defense Team,
7 witnesses, or potential witnesses create notes that contain, in
8 whole or in part, Confidential Information, or to the extent that
9 copies are made for authorized use by members of the Defense Team,
10 such notes, copies, or reproductions become Confidential Information
11 subject to the Protective Order and must be handled in accordance
12 with the terms of the Protective Order.

13 k. The Defense Team shall use Confidential Information
14 only for the litigation of the instant criminal case and for no
15 other purpose. Litigation of this matter includes any appeal filed
16 by defendant and any motion filed by defendant pursuant to 28 U.S.C.
17 § 2255 pertaining to the instant criminal case. In the event that a
18 party needs to file Confidential Information with the Court or
19 divulge the contents of Confidential Information in court filings,
20 the filing should be made under seal. If the Court rejects the
21 request to file such information under seal, the party seeking to
22 file such information publicly shall provide advance written notice
23 to the other party to afford such party an opportunity to object or
24 otherwise respond to such intention. If the other party does not
25 object to the proposed filing, the party seeking to file such
26 information shall redact any PII Materials make all reasonable
27 attempts to limit the divulging of PII Materials.

1 l. The parties agree that any Confidential Information
2 inadvertently produced in the course of discovery prior to entry of
3 the Protective Order shall be subject to the terms of the Protective
4 Order. If Confidential Information was inadvertently produced prior
5 to entry of the Protective Order without being marked "CONFIDENTIAL
6 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
7 shall reproduce the material with the correct designation and notify
8 defense counsel of the error. The Defense Team shall take immediate
9 steps to destroy the unmarked material, including any copies.

10 m. Confidential Information shall not be used by the
11 defendant or Defense Team, in any way, in any other matter, absent
12 an order by this Court. All materials designated subject to the
13 Protective Order maintained in the Defense Team's files shall remain
14 subject to the Protective Order unless and until such order is
15 modified by this Court. Within 30 days of the conclusion of
16 appellate and post-conviction proceedings, defense counsel shall
17 return all PII Materials certify that such materials have been
18 destroyed, or certify that such materials are being kept pursuant to
19 the California Business and Professions Code and the California
20 Rules of Professional Conduct.

21 n. In the event that there is a substitution of counsel
22 prior to when such documents must be returned, new defense counsel
23 must be informed of, and agree in writing to be bound by, the
24 requirements of the Protective Order before the undersigned defense
25 counsel transfers any Confidential Information to the new defense
26 counsel. New defense counsel's written agreement to be bound by the
27 terms of the Protective Order must be returned to the Assistant U.S.
28 Attorney assigned to the case. New defense counsel then will become

1 the Defense Team's custodian of materials designated subject to the
2 Protective Order and shall then become responsible, upon the
3 conclusion of appellate and post-conviction proceedings, for
4 (1) returning to the government, certifying the destruction of, or
5 retaining pursuant to the California Business and Professions Code
6 and the California Rules of Professional Conduct all PII Materials.

7 o. Defense counsel agrees to advise defendant and all
8 members of the Defense Team of their obligations under the
9 Protective Order and ensure their agreement to follow the Protective
10 Order, prior to providing defendant and members of the Defense Team
11 with access to any materials subject to the Protective Order.

12 p. Defense Counsel has conferred with defendant
13 regarding this stipulation and the proposed order thereon, and
14 defendant agrees to the terms of the proposed order.

15 IT IS SO ORDERED.

16
17 _____
DATE

17 _____
HONORABLE JESUS G. BERNAL
UNITED STATES DISTRICT JUDGE

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19 Presented by:

20
21 /s/
VALERIE L. MAKAREWICZ
22 Assistant United States Attorney
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